



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,277	01/04/2002	Frank D. Husson JR.	SOLAR1120-3	1245
30542 7590 01/09/2009 FOLEY & LARDNER LLP P.O. BOX 80278 SAN DIEGO, CA 92138-0278				
EXAMINER				
PRICE, CARL D				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
01/09/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: FRANK HUSSON

Application No. 10/039,277
Technology Center 3700

Mailed: January 8, 2009

Before TOI JOHNSON *Review Paralegal*
JOHNSON, *Review Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 17, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure*

(MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed August 27, 2007 is deficient because the "Evidence Relied Upon" section fails to include the reference Stoumen (US 6,263,870) cited on page 7 in the Examiner's Answer's grounds of rejection for claims 10, 14, 15 and 44 under 35 USC § 103(a).

Appropriate correction is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) issue a PTOL-90 citing the missing reference listed under the Evidence Relied Upon section; and
- 2) such further action as may be required.

Application No. 10/039,277

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278